

Abstract

The crime of habitual drunkenness under s. 360 of the Criminal Code

The subject of my thesis concerns the crime of habitual drunkenness under s. 360 of Act. No. 40/2009 Coll., Criminal Code, as amended. In this thesis I describe not only its political theory but also its historical background and evolution in the Czech Republic. The crime of habitual drunkenness was and still is considered to be an atypical crime with very unusual analogy in respect of the Criminal Code. However, this crime is somewhat a break through in the fundamental principle of criminal law, the principle of liability for fault (*nullum crimen sine culpa*). This crime is considered unusual because of its specific legislative and legal construction as well as its extraordinary implications in terms of theoretical principles and requirements which are the basis of criminal law. All of the above mentioned attributes, historical and current concepts and proposals *de lege ferenda* can be found in this thesis.

This thesis is divided into ten chapters. For clarity, these chapters are divided into multiple sub-sections. First chapter deals with the notion of insanity which, by no means, goes hand in hand with the crime of habitual drunkenness. Second chapter is a complex summary of the historical evolution from Maria Theresa codes until present. Third chapter provides a detailed analysis of body of the offence (of the crime of habitual drunkenness). It treats the object, objective side, the subject (the offender), subjective side as well as about quasi delict, objective conditions of the law. Fourth chapter discusses possible theoretical approaches. Fifth chapter pays attention to the crime of habitual drunkenness and quasi delict. Sixth chapter outlines the possibility of concurrence of habitual drunkenness and other crimes. Seventh chapter deals with criminal sanctions for drunkenness, in particular it criticizes its high criminal rate. Eighth chapter highlights an institute of *actio libera in causa* which is a specific criminal structure establishing criminal liability of offender, who was insane at the time of committing a crime. Ninth chapter briefly discusses drunkenness and institute of *actio libera in causa* in legal regulations of Germany, Austria, Slovakia and their comparison with the Czech legislation. Tenth chapter provides a summary of some fundamental weakness that can be found in the Czech legislation. These weaknesses should be, in the authors opinion, *de lege ferenda* dealt with by the legislator in the future.